

Representative Sheryl L. Allen proposes the following substitute bill:

RENEWABLE ENERGY TAX CREDIT

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheryl L. Allen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses the renewable energy tax credit's continuing application.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ extends the availability of the renewable energy tax credit until 2011;
- ▶ expands the renewable energy tax credit to include direct-use geothermal and geothermal electricity; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-134, as last amended by Chapters 217, 244 and 294, Laws of Utah 2005

REPEALS AND REENACTS:

59-7-614, as last amended by Chapters 217, 244 and 294, Laws of Utah 2005



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-7-614** is repealed and reenacted to read:

59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations -- State tax credit in addition to allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of Uniform School Fund.

(1) As used in this section:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, geothermal electricity, direct-use geothermal, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure that a business entity uses to transact its business except as provided in Subsection (1)(f)(ii); and

(ii) (A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure that a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Direct-use geothermal system" means a system of apparatus and equipment

57 enabling the direct use of thermal energy, generally between 100 and 300 Fahrenheit, that is
58 contained in the earth to meet energy needs, including heating a building, an industrial process,
59 and aquaculture.

60 (h) "Geothermal electricity" means energy contained in heat that continuously flows
61 outward from the earth that is used as a sole source of energy to produce electricity.

62 (i) "Hydroenergy system" means a system of apparatus and equipment capable of
63 intercepting and converting kinetic water energy into electrical or mechanical energy and
64 transferring this form of energy by separate apparatus to the point of use or storage.

65 (j) "Individual taxpayer" means any person who is a taxpayer as defined in Section
66 59-10-103 and an individual as defined in Section 59-10-103.

67 (k) "Passive solar system":

68 (i) means a direct thermal system that utilizes the structure of a building and its
69 operable components to provide for collection, storage, and distribution of heating or cooling
70 during the appropriate times of the year by utilizing the climate resources available at the site;
71 and

72 (ii) includes those portions and components of a building that are expressly designed
73 and required for the collection, storage, and distribution of solar energy.

74 (l) "Residential energy system" means any active solar, passive solar, biomass,
75 direct-use geothermal, wind, or hydroenergy system used to supply energy to or for any
76 residential unit.

77 (m) "Residential unit" means any house, condominium, apartment, or similar dwelling
78 unit that serves as a dwelling for a person, group of persons, or a family but does not include
79 property subject to a fee under:

80 (i) Section 59-2-404;

81 (ii) Section 59-2-405;

82 (iii) Section 59-2-405.1;

83 (iv) Section 59-2-405.2; or

84 (v) Section 59-2-405.3.

85 (n) "Utah Geological Survey" means the Utah Geological Survey established in Section
86 63-73-5.

87 (o) "Wind system" means a system of apparatus and equipment capable of intercepting

88 and converting wind energy into mechanical or electrical energy and transferring these forms of
89 energy by a separate apparatus to the point of use or storage.

90 (2) (a) (i) For taxable years beginning on or after January 1, 2006, but beginning on or
91 before December 31, 2011, a business entity that purchases and completes or participates in the
92 financing of a residential energy system to supply all or part of the energy required for a
93 residential unit owned or used by the business entity and situated in Utah is entitled to a tax
94 credit as provided in this Subsection (2)(a).

95 (ii) (A) A business entity is entitled to a tax credit equal to 25% of the costs of a
96 residential energy system installed with respect to each residential unit it owns or uses,
97 including installation costs, against any tax due under this chapter for the taxable year in which
98 the energy system is completed and placed in service.

99 (B) The total amount of the credit under this Subsection (2)(a) may not exceed \$2,000
100 per residential unit.

101 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system
102 completed and placed in service on or after January 1, 2006, but on or before December 31,
103 2011.

104 (iii) If a business entity sells a residential unit to an individual taxpayer before making
105 a claim for the tax credit under this Subsection (2)(a), the business entity may:

106 (A) assign its right to this tax credit to the individual taxpayer; and

107 (B) if the business entity assigns its right to the tax credit to an individual taxpayer
108 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the
109 individual taxpayer had completed or participated in the costs of the residential energy system
110 under Section 59-10-134.

111 (b) (i) For taxable years beginning on or after January 1, 2006, but beginning on or
112 before December 31, 2011, a business entity that purchases or participates in the financing of a
113 commercial energy system is entitled to a tax credit as provided in this Subsection (2)(b) if:

114 (A) the commercial energy system supplies all or part of the energy required by
115 commercial units owned or used by the business entity; or

116 (B) the business entity sells all or part of the energy produced by the commercial
117 energy system as a commercial enterprise.

118 (ii) (A) A business entity is entitled to a tax credit equal to 10% of the costs of any

119 commercial energy system installed, including installation costs, against any tax due under this
120 chapter for the taxable year in which the commercial energy system is completed and placed in
121 service.

122 (B) The total amount of the credit under this Subsection (2)(b) may not exceed \$50,000
123 per commercial unit.

124 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy
125 system completed and placed in service on or after January 1, 2006, but on or before December
126 31, 2011.

127 (iii) A business entity that leases a commercial energy system installed on a
128 commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can
129 confirm that the lessor irrevocably elects not to claim the credit.

130 (iv) Only the principal recovery portion of the lease payments, which is the cost
131 incurred by a business entity in acquiring a commercial energy system, excluding interest
132 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

133 (v) A business entity that leases a commercial energy system is eligible to use the tax
134 credit under this Subsection (2)(b) for a period no greater than seven years from the initiation
135 of the lease.

136 (c) (i) A tax credit under this section may be claimed for the taxable year in which the
137 energy system is completed and placed in service.

138 (ii) Additional energy systems or parts of energy systems may be claimed for
139 subsequent years.

140 (iii) If the amount of a tax credit under this section exceeds a business entity's tax
141 liability under this chapter for a taxable year, the amount of the credit exceeding the liability
142 may be carried over for a period which does not exceed the next four taxable years.

143 (3) (a) The tax credits provided for under Subsection (2) are in addition to any tax
144 credits provided under the laws or rules and regulations of the United States.

145 (b) (i) The Utah Geological Survey may set standards for residential and commercial
146 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of
147 the systems to ensure that the systems eligible for the tax credit use the state's renewable and
148 nonrenewable energy resources in an appropriate and economic manner.

149 (ii) A tax credit may not be taken under Subsection (2) until the Utah Geological

150 Survey has certified that the energy system has been completely installed and is a viable system
151 for saving or production of energy from renewable resources.

152 (c) The Utah Geological Survey and the commission may make rules in accordance
153 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are necessary to
154 implement this section.

155 (d) The Uniform School Fund shall be reimbursed by transfers from the General Fund
156 for any credits taken under this section.

157 Section 2. Section **59-10-134** is amended to read:

158 **59-10-134. Renewable energy systems tax credit -- Definitions -- Individual tax**
159 **credit -- Limitations -- Business tax credit -- Limitations -- State tax credit in addition to**
160 **allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of**
161 **Uniform School Fund.**

162 (1) As used in this part:

163 (a) "Active solar system":

164 (i) means a system of equipment capable of collecting and converting incident solar
165 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
166 by a separate apparatus to storage or to the point of use; and

167 (ii) includes water heating, space heating or cooling, and electrical or mechanical
168 energy generation.

169 (b) "Biomass system" means any system of apparatus and equipment [~~capable of~~
170 ~~converting organic plant, wood, or waste products into electrical and thermal energy and~~
171 ~~transferring these forms of energy by a separate apparatus to the point of use or storage]~~ for use
172 in converting material into biomass energy, as defined in Section 59-12-102, and transporting
173 that energy by separate apparatus to the point of use or storage.

174 (c) "Business entity" means any sole proprietorship, estate, trust, partnership,
175 association, corporation, cooperative, or other entity under which business is conducted or
176 transacted.

177 (d) "Commercial energy system" means any active solar, passive solar, geothermal
178 electricity, direct-use geothermal, wind, hydroenergy, or biomass system used to supply energy
179 to a commercial unit or as a commercial enterprise.

180 (e) "Commercial enterprise" means a business entity whose purpose is to produce

181 electrical, mechanical, or thermal energy for sale from a commercial energy system.

182 (f) (i) "Commercial unit" means any building or structure [~~which~~] that a business entity
183 uses to transact its business, except as provided in Subsection (1)(f)(ii); and

184 (ii) (A) in the case of an active solar system used for agricultural water pumping or a
185 wind system, each individual energy generating device shall be a commercial unit; and

186 (B) if an energy system is the building or structure [~~which~~] that a business entity uses
187 to transact its business, a commercial unit is the complete energy system itself.

188 (g) "Direct-use geothermal system" means a system of apparatus and equipment
189 enabling the direct use of thermal energy, generally between 100 and 300 Fahrenheit, that is
190 contained in the earth to meet energy needs, including heating a building, an industrial process,
191 and aquaculture.

192 (h) "Geothermal electricity" means energy contained in heat that continuously flows
193 outward from the earth that is used as a sole source of energy to produce electricity.

194 [~~(g)~~] (i) "Hydroenergy system" means a system of apparatus and equipment capable of
195 intercepting and converting kinetic water energy into electrical or mechanical energy and
196 transferring this form of energy by separate apparatus to the point of use or storage.

197 [~~(h)~~] (j) "Individual taxpayer" means any person who is a taxpayer as defined in
198 Section 59-10-103 and an individual as defined in Section 59-10-103.

199 [~~(i)~~] (k) "Passive solar system":

200 (i) means a direct thermal system [~~which~~] that utilizes the structure of a building and its
201 operable components to provide for collection, storage, and distribution of heating or cooling
202 during the appropriate times of the year by utilizing the climate resources available at the site;
203 and

204 (ii) includes those portions and components of a building that are expressly designed
205 and required for the collection, storage, and distribution of solar energy.

206 [~~(j)~~] (l) "Residential energy system" means any active solar, passive solar, biomass,
207 direct-use geothermal, wind, or hydroenergy system used to supply energy to or for any
208 residential unit.

209 [~~(k)~~] (m) "Residential unit" means any house, condominium, apartment, or similar
210 dwelling unit [~~which~~] that serves as a dwelling for a person, group of persons, or a family but
211 does not include property subject to a fee under:

- 212 (i) Section 59-2-404;
213 (ii) Section 59-2-405;
214 (iii) Section 59-2-405.1;
215 (iv) Section 59-2-405.2; or
216 (v) Section 59-2-405.3.

217 ~~(f)~~ (n) "Utah Geological Survey" means the Utah Geological Survey established in
218 Section 63-73-5.

219 ~~(m)~~ (o) "Wind system" means a system of apparatus and equipment capable of
220 intercepting and converting wind energy into mechanical or electrical energy and transferring
221 these forms of energy by a separate apparatus to the point of use or storage.

222 (2) For taxable years beginning on or after January 1, ~~[2001]~~ 2006, but beginning on or
223 before December 31, ~~[2006]~~ 2011, any individual taxpayer may claim a tax credit as provided
224 in this section if:

225 (a) the individual taxpayer purchases and completes or participates in the financing of a
226 residential energy system to supply all or part of the energy for the individual taxpayer's
227 residential unit in the state; or

228 (b) (i) a business entity sells a residential unit to an individual taxpayer ~~[prior to]~~
229 before making a claim for a tax credit under Subsection (6) or Section 59-7-614; and

230 (ii) the business entity assigns its right to the tax credit to the individual taxpayer as
231 provided in Subsection (6)(c) or Subsection 59-7-614(2)(a)(iii).

232 (3) (a) An individual taxpayer meeting the requirements of Subsection (2) is entitled to
233 a tax credit equal to 25% of the costs of the energy system, including installation costs, against
234 any income tax liability of the individual taxpayer under this chapter for the taxable year in
235 which the residential energy system is completed and placed in service.

236 (b) The total amount of the credit under this section may not exceed \$2,000 per
237 residential unit.

238 (c) The credit under this section is allowed for any residential energy system completed
239 and placed in service on or after January 1, ~~[2001]~~ 2006, but on or before December 31, ~~[2006]~~
240 2011.

241 (4) (a) The tax credit provided for in this section shall be claimed in the return for the
242 taxable year in which the energy system is completed and placed in service.

243 (b) Additional residential energy systems or parts of residential energy systems may be
244 similarly claimed in returns for subsequent taxable years as long as the total amount claimed
245 does not exceed \$2,000 per residential unit.

246 (c) If the amount of the tax credit under this section exceeds the income tax liability of
247 the individual taxpayer for that taxable year, then the amount not used may be carried over for
248 a period [~~which~~] that does not exceed the next four taxable years.

249 (5) (a) Individual taxpayers who lease a residential energy system installed on a
250 residential unit are eligible for the residential energy tax credits if the lessee can confirm that
251 the lessor irrevocably elects not to claim the state tax credit.

252 (b) Only the principal recovery portion of the lease payments, which is the cost
253 incurred by the taxpayer in acquiring the residential energy system excluding interest charges
254 and maintenance expenses, is eligible for the tax credits.

255 (c) Individual taxpayers who lease residential energy systems are eligible to use the tax
256 credits for a period no greater than seven years from the initiation of the lease.

257 (6) (a) A business entity that purchases and completes or participates in the financing
258 of a residential energy system to supply all or part of the energy required for a residential unit
259 owned or used by the business entity and situated in Utah is entitled to a tax credit as provided
260 in this Subsection (6).

261 (b) (i) For taxable years beginning on or after January 1, [~~2001~~] 2006, but beginning on
262 or before December 31, [~~2006~~] 2011, a business entity is entitled to a tax credit equal to 25% of
263 the costs of a residential energy system installed with respect to each residential unit it owns or
264 uses, including installation costs, against any tax due under this chapter for the taxable year in
265 which the energy system is completed and placed in service.

266 (ii) The total amount of the credit under this Subsection (6) may not exceed \$2,000 per
267 residential unit.

268 (iii) The credit under this Subsection (6) is allowed for any residential energy system
269 completed and placed in service on or after January 1, [~~2001~~] 2006, but on or before December
270 31, [~~2006~~] 2011.

271 (c) If a business entity sells a residential unit to an individual taxpayer [~~prior to~~] before
272 making a claim for the tax credit under this Subsection (6), the business entity may:

273 (i) assign its right to this tax credit to the individual taxpayer; and

274 (ii) if the business entity assigns its right to the tax credit to an individual taxpayer
275 under Subsection (6)(c)(i), the individual taxpayer may claim the tax credit as if the individual
276 taxpayer had completed or participated in the costs of the residential energy system under this
277 section.

278 (7) (a) A business entity that purchases or participates in the financing of a commercial
279 energy system is entitled to a tax credit as provided in this Subsection (7) if:

280 (i) the commercial energy system supplies all or part of the energy required by
281 commercial units owned or used by the business entity; or

282 (ii) the business entity sells all or part of the energy produced by the commercial
283 energy system as a commercial enterprise.

284 (b) (i) A business entity is entitled to a tax credit equal to 10% of the costs of any
285 commercial energy system installed, including installation costs, against any tax due under this
286 chapter for the taxable year in which the commercial energy system is completed and placed in
287 service.

288 (ii) The total amount of the credit under this Subsection (7) may not exceed \$50,000
289 per commercial unit.

290 (iii) The credit under this Subsection (7) is allowed for any commercial energy system
291 completed and placed in service on or after January 1, [~~2004~~] 2006, but on or before December
292 31, [~~2006~~] 2011.

293 (c) A business entity that leases a commercial energy system installed on a commercial
294 unit is eligible for the tax credit under this Subsection (7) if the lessee can confirm that the
295 lessor irrevocably elects not to claim the credit.

296 (d) Only the principal recovery portion of the lease payments, which is the cost
297 incurred by a business entity in acquiring a commercial energy system, excluding interest
298 charges and maintenance expenses, is eligible for the tax credit under this Subsection (7).

299 (e) A business entity that leases a commercial energy system is eligible to use the tax
300 credit under this Subsection (7) for a period no greater than seven years from the initiation of
301 the lease.

302 (8) (a) A tax credit under this section may be claimed for the taxable year in which the
303 energy system is completed and placed in service.

304 (b) Additional energy systems or parts of energy systems may be claimed for

305 subsequent years.

306 (c) If the amount of a tax credit under this section exceeds a business entity's tax
307 liability under this chapter for a taxable year, the amount of the credit exceeding the liability
308 may be carried over for a period which does not exceed the next four taxable years.

309 (9) The tax credits provided for under this section are in addition to any tax credits
310 provided under the laws or rules and regulations of the United States.

311 (10) (a) The Utah Geological Survey may set standards for residential and commercial
312 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of
313 the systems to ensure that the systems eligible for the tax credit use the state's renewable and
314 nonrenewable energy resources in an appropriate and economic manner.

315 (b) A tax credit may not be taken under this section until the Utah Geological Survey
316 has certified that the energy system has been completely installed and is a viable system for
317 saving or production of energy from renewable resources.

318 (11) The Utah Geological Survey and the commission [~~are authorized to promulgate~~]
319 may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
320 Act, [~~which~~] that are necessary to implement this section.

321 (12) The Uniform School Fund shall be reimbursed by transfers from the General Fund
322 for any credits taken under this section.

323 Section 3. **Retrospective operation.**

324 This bill has retrospective operation for taxable years beginning on or after January 1,
325 2006.

State Impact

Passage of this bill could reduce the General Fund by \$100,000 annually beginning in FY 2008.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	(\$100,000)
TOTAL	\$0	\$0	\$0	(\$100,000)

Individual and Business Impact

Individuals utilizing renewable energy tax credits could see a reduction in their tax liability.

Office of the Legislative Fiscal Analyst